

REMARKS

Claims 321-350 are presently pending. Claim 335 has been amended as discussed below.

Species Election.

The Examiner finds that the instant application contains claims directed to two allegedly patentably distinct species of the claimed invention, wherein the polypeptide variant differs from wild-type B7-1 by a substitution at (A) position 65 or (B) position 31. This election is respectfully traversed in part and rendered moot by the amendment to claim 335.

The mature domain of wild-type human B7-1 comprises amino acids 35-288 of human B7-1 (SEQ ID NO:278). See specification at, e.g., p. 255, lines 14-20 and p. 31, lines 1-8. The mature domain of human B7-1 lacks the signal peptide (amino acids 1-34) of human B7-1. Amino acid position 31 of the mature domain of human B7-1, *as measured from the N terminus of the mature domain of human B7-1*, corresponds to the same amino acid position as position 65 of the human B7-1 (SEQ ID NO:278), because the N terminus of the mature domain of human B7-1 corresponds to amino acid position 34 of human B7-1. Thus, the claims are not directed to patentably distinct species comprising different substitution sites. For at least these reasons, the rejection is improper and should be withdrawn.

The rejection has nevertheless been mooted by the amending claim 335 to clarify that the substituted amino acid position corresponds to amino acid position 65 of human B7-1 (SEQ ID NO:278). As amended, claim 335 specifies a polypeptide variant of a mature domain of a wild-type primate B7-1 comprising a polypeptide sequence that differs from the polypeptide sequence of the mature domain of the wild-type primate B7-1 by at least one amino acid, and which comprises the substitution of an amino acid other than alanine at an amino acid residue position corresponding to position 65 of the polypeptide sequence of wild-type human B7-1 (SEQ ID NO:278).

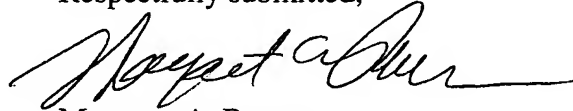
This amendment is fully supported by the specification as filed and includes no new matter. Withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. If a telephone conference would expedite prosecution of this application in any way, the Examiner is invited to telephone the undersigned at (650) 298-5809.

Applicants believe that no fees are due. However, in the event it is determined any fee is due, the Commissioner is hereby authorized to charge any fees under 37 CFR §1.17 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-0990.

Respectfully submitted,



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